

**DECISION
GRAFTON PLANNING BOARD**

**SPECIAL PERMIT (SP 2018-2) & SITE PLAN APPROVAL
Bar Room**

One Grafton Common, Grafton, MA 01519

Sean Padgett (Applicant)

Town of Grafton (Owner)

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Decision of the Grafton Planning Board (hereinafter the BOARD) on the petition of Sean Padgett, (hereinafter the APPLICANT), for a Special Permit (SP 2018-2) and Site Plan Approval for a bar room on property located at One Grafton Common, Grafton, MA, (hereinafter the SITE) which is located in the Neighborhood Business (NB) Zoning District and shown on Grafton Assessor's Map 74, Lot 72, and owned by the Town of Grafton (hereinafter the OWNER) by deed recorded in the Worcester District Registry of Deeds (WDRD) in Book 1142, Page 441. The application was formally received on February 7, 2018.

I. BACKGROUND

The above referenced application for Special Permit (SP 2018-2) and Site Plan Approval (hereinafter the Application) was submitted on February 7, 2018. Notice of the public hearing and the subject matter thereof was published in the Worcester Telegram & Gazette on February 11 & 18, 2018, and posted with the Town Clerk's Office on February 9, 2018. Abutters were notified by First Class Mail.

The public hearing on the Application was opened on February 26, 2018. The following Board members were present throughout the public hearing: Chairman Michael Scully, Vice Chairman Robert Hassinger, Clerk J. Daniel Graham, Members Linda Hassinger and David Robbins, and Associate Member Sharon Carroll-Tidman. Sean Padgett (Applicant) presented the Application to the Board. Following public input the hearing was closed on February 26, 2018. The record of the proceedings and submissions upon which this decision is based may be referred to in the Office of the Town Clerk or in the Office of the Planning Board.

II. SUBMITTALS

The following items were submitted to the Board for its consideration of this application:

1. Unbound Application packet, stamped by Town Clerk's Office on February 7, 2018, by the Planning Department on February 7, 2018 and signed/dated by the Applicant on February 7, 2018.
 - Application for Special Permit form; 1 page.
 - Application for Site Plan Approval form; 1 page.
 - Certificate of Good Standing, signed by the Treasurer/Collector's Office on February 7, 2018; 1 page.
 - Certified Abutters List, signed by the Assessor's Office on February 7, 2018; 1 page.
 - Project Narrative and Waiver list; 4 pages.
 - Property Location Map, black and white, 8 ½" x 11"; 1 page.
 - Proposed Floor Plans, black and white, 8 ½" x 11"; 2 pages.
 - Property location plan, One Grafton Common; 1 page.
2. Public Hearing Legal Notice – Stamped by the Town Clerk on February 9, 2018; 1 page.

3. Email, Subject: SP 2018-2: 1 Grafton Common, Comments from Conservation Agent, dated and received February 9, 2018; 1 page.
4. Email, Subject: Request for Comments [1 Grafton Common], Comments from Board of Health, dated and received February 12, 2018; 1 page.
5. Revised Application materials received February 26, 2018 to include the following:
 - Project Narrative & Waiver list; 5 pages.
 - Proposed Ground Floor Plan, black and white, 8 ½" x 11"; 2 pages.
 - Applicant Affidavit
6. Revised Proposed Floor Plan, color, 8 ½" x 11"; 1 page.

III. FINDINGS

At their meeting of March 26, 2018, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board voted to make the following Findings:

MOTION by Mr. Hassinger, SECOND by Mr. Robbins, that the Board finds favorably on findings 1-17, with corrections noted. MOTION carried unanimously, 5-0.

1. That 1 Grafton Common is owned by the Town of Grafton, contains approximately 11, 261 square feet in area, and is improved with a multi-story building constructed in 1883 occupying 58.3% of the site.
2. That the Grafton Zoning Board of Appeals on June 4, 2014 granted a special permit to modify the pre-existing non-conforming structure to permit the construction of an addition that included an elevator for handicapped accessibility.
3. That Sean Padgett, Applicant, entered into a contract with the Town of Grafton to manage the property at 1 Grafton Common.
4. That the application for Special Permit and Site Plan Approval is being sought for the requested use of a bar to be located at 1 Grafton Common (the Site), which is considered a use to allow for "other eating or drinking establishment" use within Section 3.2.3.1 – Use Regulation Schedule.
5. The Site located at 1 Grafton Common is a historic building built in 1883 containing multiple tenants. The proposed bar will be located on the lower level of the building (the premises) with access from the rear.
6. The prior use of the premises to be occupied by the proposed use was a general office use, which was occupied by the Grafton Historical Society.
7. That the Applicant has described the proposed bar as the following (Exhibit 5):
 - a. Proposed bar will have capacity for 36 seats,
 - b. Food Service will consist of snacks, and there will be no preparation of food,
 - c. Hours of operation will be Monday through Thursday 4:30 PM to 10:00 PM; Friday, Saturday, and Sunday 12:00 PM to 11:00 PM,

- d. Deliveries will occur once a week between 9:00 am and 3:00 PM, via box truck, to the entrance on Worcester Street.
8. That the Building Commissioner submitted a marked-up floor plan dated February 26, 2018 (Exhibit 6) for the proposed bar that included a calculation indicating that 12 parking spaces plus one for each employee at the maximum shift is required.
 9. That the Site is located within the Neighborhood Business (NB) District and that the proposed use category requires the issuance of a Special Permit.
 10. That during the public hearing on February 26, 2018, Sean Padgett, the Applicant, provided testimony in support of his application for a bar at One Grafton Common. Mr. Padgett stated that he is proposing a small bar room and his intent was to create a small gathering and meeting place for locals. The bar would not have any food preparation or cooking equipment and would only serve snacks or patrons could bring food to the business. He indicated that because the bar requires a special permit from the Planning Board that he has not applied for a liquor license from the Board of Selectmen.
 11. That during the public hearing Mr. Padgett stated he has attempted to rent the space for office use; however, parking was an issue and would have created more of a demand for parking during the day, when surrounding businesses are open, compared to the proposed bar room. He said the historic nature of the building, like other buildings around the Common, result in parking being used around the Common and that due to the hours of the proposed bar, majority of businesses that also use parking around the Common are closed. He said that he views the bar room use as a compatible use and not conflicting with other businesses around the Common.
 12. That during the public hearing the Town Planner stated that he worked with Robert Berger, Building Commissioner, to analyze parking and that Section 4.2.5.1 allows parking within 300 feet that can be used towards the parking requirement. He said the historic buildings within the district do not have room for on-site parking and relies on communal parking on street and around the Common. He stated that 1 Grafton Common does not have sufficient on-site parking to accommodate existing uses in the building.
 13. That the Planning Board, during the public hearing discussed parking around 1 Grafton Common and around the Common and noted there are large events held by Apple Tree Arts and concerts on the Common and that there are locations, including Town owned parcels, in the vicinity where people will park and walk to the Site.
 14. That during the public hearing the Board received public comment regarding lack of designated parking, dangerous traffic movements associated with George Jordon Jr. Boulevard one-way traffic pattern, and conflict between bar patrons and families with children.
 15. That Section 1.3.3.2 of the ZBL requires that the procedure for Site Plan Review, as defined in the ZBL, be incorporated into the procedure for reviewing Special Permits.
 16. That Section 1.3.3.3 of the ZBL defines the procedure for Site Plan Review, including a description of the plans and materials to be submitted to the Planning Board. The Board further finds that Section 1.3.3.4 of the ZBL allows an applicant to request waivers from certain requirements of the Site Plan Review procedure.
 17. That pursuant to Section 1.3.3.4 of the ZBL, the Applicant requested waivers from the following requirements for preparing site plans, as listed in Section 1.3.3.3:

- (d) certain site plan requirements, including various details and information to be shown on plan, as further described in the ZBL and as presented in the Waivers section of this decision;
- (e) stormwater management hydrological study;
- (f) report, if applicable, showing calculations of the volume of earth material to be removed from or delivered to the site, including a description of such removal or fill activity.
- (g) Written statements from engineer / architect preparing the plans indicating that the plans comply with the performance standards of Section 4/1 of the ZBL; and applicant / owner indicating site will be maintained with standards set forth in Section 4.1 of the ZBL.

MOTION by Mr. Robbins, SECOND by Mrs. Hassinger, that the Board finds favorably on finding #18, as amended. Roll Call vote: Mrs. Hassinger, aye, Mr. Robbins, aye; Mr. Scully, nay; Mr. Hassinger, aye; and Mr. Graham, nay. MOTION carried 3-2

18. With regard to Section 1.5.5(a) of the ZBL, ingress and egress to the property with particular reference to automotive and pedestrian safety convenience, traffic flow and control and access in case of fire or catastrophe, are adequate.

MOTION by Mr. Robbins, SECOND by Mr. Hassinger, that the Board finds favorably on finding #19, as amended. MOTION carried unanimously, 5-0.

19. With regard to Section 1.5.5(b) of the ZBL, off-street parking and loading areas where required, and the economic, noise, glare, or odor effects of the Special Permit on adjoining properties and properties generally in the district are satisfactory in that on-site parking is not required per Section 4.2.5.1 which allows parking within 300 feet and loading is to be provided by box truck, which will be parked on George Jordon Jr. Boulevard and deliveries made through the Worcester Street entrance to the Bar.

MOTION by Mr. Robbins, SECOND by Mr. Hassinger, that the Board finds favorably on findings 20-29. MOTION carried unanimously, 5-0.

20. With regard to Section 1.5.5(c) of the ZBL, refuse collection or disposal and service areas are satisfactory because there will be no food services provided and refuse collection and disposal is provided for all occupants of the building.
21. With regard to Section 1.5.5(d) of the ZBL, screening and buffering with reference to type, dimensions and character are not applicable to this application because the Applicant is requesting to lease interior space of the existing building and no physical changes are proposed to the exterior.
22. With regard to Section 1.5.5(e) of the ZBL, signs and exterior lighting with reference to glare, traffic safety, economic effect is not applicable to this application because the Applicant will apply to the Building Department for a small sign that complies with the Zoning Bylaw and that the sign will also require approval from the Historic District Commission.
23. With regard to Section 1.5.5(f) of the ZBL, the required yards and other open space requirements are not applicable to this application because a special permit was granted by the Zoning Board of

Appeals for an addition in 2014 due to the structure and the lot being pre-existing non-conforming and does not comply with setback requirements or lot coverage requirements.

24. With regard to Section 1.5.5(g) of the ZBL, that the proposed use of the property (as presented in the Exhibits and stated within this Decisions) is generally compatible with adjacent properties in the district. The Planning Board finds there is a similar use located within the district, in close proximity.
25. With regard to Section 1.5.5(h) of the ZBL, that upon satisfying and complying with all applicable Board of Health requirements the use will not have a significant adverse impact on the public or private water supply. The structure is served by Town water and sewer services.
26. With regard to Section 1.5.5(i) the Site is not located within the Water Supply Protection Overlay District.
27. With regard to Section 1.5.5(j) of the ZBL, the Application will not have an adverse impact on the protection of important historic, cultural and scenic landscapes.
28. That determinations regarding the above referenced Findings are based upon the plans identified in this Decision, as well as the information submitted and presented in association with the Application.
29. That determinations regarding the above referenced Findings are predicated on the satisfactory maintenance of the site in accordance with this Decision, as well as all applicable federal, State, and Local regulations, except where modified by this Decision.

IV. WAIVERS

1. At their meeting of March 26, 2018, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Hassinger) voted 5 - 0 to grant the Applicant's request for waivers from the following requirements of *Section 1.3.3.3* of the ZBL with regard to preparing site plan for the reasons stated within the Findings of this Decision:
 - *Section 1.3.3.3 (d)*
 - (10) Wetlands, ponds, streams, or other water bodies including all applicable buffer zones;
 - (11) Ownership of all abutting land;
 - (12) Existing and proposed topography;
 - (13) All property lines of the subject property, and all setbacks of buildings and parking areas from said lines, and existing and proposed easements, if any;
 - (14) Extent and type of all existing and proposed surfaces (pervious and impervious) on the property, including specific materials;
 - (15) Lot coverage calculations showing percentage of buildings, percentage of pavement, and percentage of open space/ landscaped areas;
 - (16) Parking calculations for proposed use(s), including all existing use(s) that will continue to exist on the property, if applicable;
 - (17) Calculations of the volume of earth material to be removed or filled;
 - (18) Driveways and driveway openings/entrances;

- (21) Landscaping;
- (22) Lighting;
- (24) Sewage, refuge, waste disposal;
- (25) Storm water management;
- (26) All structures and buildings associated with the proposed and existing uses;
- (27) Exterior storage areas and fences
- (28) Utilities and their exterior appurtenances
- (29) Provisions for dust and erosion control
- (30) Existing vegetation
- **Section 1.3.3.3(e):** Stormwater management hydrological study;
- **Section 1.3.3.3(f):** Report, if applicable, showing calculations of the volume of earth material to be removed from or delivered to the site, including a description of such removal or fill activity.
- **Section 1.3.3.3(g):** Written statements from engineer/architect preparing the plans indicating that the plans comply with the performance standards of Section 4.1 of the ZBL; and applicant / owner indicating site will be maintained with standards set forth in Section 4.1 of the ZBL.

V. CONDITIONS

At their meeting of March 26, 2018, after due consideration of the Exhibits submitted and the entire record of proceedings introduced and accepted in this matter, the Grafton Planning Board (motion by Mr. Robbins, seconded by Mr. Hassinger, voted 5 - 0 to grant the Special Permit with the following conditions:

1. This Special Permit (SP 2018-2) application specifically authorizes the change in use to a bar room, which is categorized by the Use Regulations as “other eating or drinking establishment” as described within the above referenced Exhibits and Findings of this Decision at the location of 1 Grafton Common.
2. In accordance with Section 1.5.8 of the Zoning Bylaw, this Special Permit and Site Plan Approval shall lapse within one (1) year from the date of the expiration of the appeal period if substantial use, or construction, has not been commenced except in accordance with the law. Any request for extension of said period of validity shall be considered a Modification of this Special Permit, and such request shall be filed and reviewed in accordance with the procedure specified in Section 1.5 of the Zoning Bylaw.
3. Signage for, and associated with, the use authorized by this Decision shall be installed in accordance with, and conform to, the Town of Grafton Zoning By-law. This Decision shall not be construed as approving or authorizing any such signage.
4. Delivery vehicles shall park on George Jordan Jr. Boulevard and will occur once a week between the hours of 9:00 AM and 3:00 PM.
5. Hours of operation shall be Monday through Thursday 4:30 PM to 10:00 PM; Friday, Saturday, and Sunday 12:00 PM to 11:00 PM.

6. This Special Permit and Site Plan Approval shall not take effect until the Decision has been recorded at the Worcester District Registry of Deeds (WDRD) and provided the Planning Board and the Building Department with a copy of such recording, including the WDRD Book and Page Number and/or Instrument Number.
7. By recording this Special Permit and Site Plan Approval Decision in the WDRD, the Applicant agrees to and accepts the conditions set forth in this Special Permit and Site Plan Approval Decision.
8. Any inability, failure or refusal by the Applicant to comply with the Conditions of this Decision, when notified of failure of compliance, shall be grounds for the immediate denial of building, construction or occupancy permits with respect to this project.
9. The work authorized by this Special Permit shall be solely for the purposes as stated within the above referenced Conditions of this Decision. Changes to the application presented in this Application may be made only upon the authorization from the Planning Board. Such authorization shall only be granted provided the Board finds that any change requested by the Applicant is not substantially different than the application presented within the Exhibits of this Decision, and is consistent with the intent and purpose of this Decision. Requests for such change(s) shall be submitted in writing to the Planning Board.

IV. RECORD OF VOTE

Constituting a majority of the Planning Board, the following members voted 5-0 to grant the Special Permit (SP 2018-2) Application with Conditions for a Bar Room at 1 Grafton Common based on the information received at the public hearing and the aforementioned findings.

<u>Michael Scully, Chairman</u>	<u>AYE</u>	<u>Linda Hassinger, Member</u>	<u>AYE</u>
<u>Robert Hassinger, Vice Chairman</u>	<u>AYE</u>	<u>David Robbins, Member</u>	<u>AYE</u>
<u>J. Daniel Graham, Clerk</u>	<u>AYE</u>		

DATE OF FILING OF DECISION: BY ORDER OF THE BOARD



Joseph Laydon, Town Planner

3-28-15

Date

- cc: Applicant / Owner
- Building Inspector
 - Assessors
 - Conservation Commission

To Whom It May Concern: This is to certify and verify that the twenty (20) days have elapsed since this decision was filed in the Town Clerk's office and that no such appeals have been filed in the reference to the same, or that, if such appeal has been filed, it has been dismissed or denied.

Kandy Lavallee, Interim Town Clerk

Date